

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

City of Park Ridge, Illinois,
Petitioner

vs.

Union Pacific Railroad Company
Respondent

Petition of the City of Park Ridge for
an Order approving a beautification plan
as being in compliance with the require-
ments of 92 Illinois Administrative Code
1535.205 on the Union Pacific Railroad
Company right-of-way within 500 feet of
the crossings of the Union Pacific
Railroad Company's tracks with the
following streets and highways:
Ozark Avenue/Canfield Road, Prospect
Avenue, Greenwood Avenue, Dee
Road, and Oakton Street.

T00-0053

ORDER

By the Commission:

On June 20, 2000, the City of Park Ridge, Illinois, a municipal corporation ("Petitioner") filed the above-captioned petition for approval of a beautification plan as being in accordance with the provisions of 92 Illinois Administrative Code ("I.A.C.") 1535.205 (formerly known as Rule 205 of General Order 138) with the Illinois Commerce Commission ("Commission") naming as Respondent, the Union Pacific Railroad Company.

Pursuant to notice given in accordance with the rules and regulations, the matter came on for hearing before a duly authorized Hearing Examiner of the Commission at its Chicago office on August 23, 2000. Petitioner and Respondent appeared and were represented by counsel. An appearance was also entered by Henry Humphries, Railroad Safety Specialist of the Commission's Transportation Division. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

A proposed order was served upon the parties on or about September 15, 2000. No briefs on exceptions were filed.

APPLICABLE LAW AND RULE

Illinois Commercial Transportation Law

Chapter 625 ILCS 5/18c-7403(3)

...Every rail carrier operating within this State shall remove from its right-of-way at all grade crossings within the State, such brush, shrubbery and trees as is reasonably practical for a distance of not less than 500 feet in either direction from each grade crossing. ...

92 I.A.C. 1535.205

Every railroad shall keep its right-of-way adjacent to its tracks reasonably clear of brush, shrubbery, trees, weeds, crops, and all necessary permanent obstructions such as unauthorized signs and billboards for a distance of at least 500 feet each way from every grade crossing where such things would materially obscure the view of approaching trains to travelers on the highway.

INTRODUCTION

The Transportation Section of the Northwestern Municipal Conference hosted a meeting several months ago in Schaumburg, Illinois for a discussion of beautification at the depots and railroad rights-of-way located in their communities. Among the attendees were representatives of various municipalities, a representative from the Commission's Railroad Section, and a representative from the Respondent Railroad, Union Pacific Railroad Company. There was general discussion resulting in a proposal that the parties preserve attractive vegetation around the stations while considering safety regulations as set forth in the Illinois Commercial Transportation Law ("Law") and the rules and regulations of the Commission.

Respondent herein, developed a Beautification Lease Agreement which has been entered into by the Railroad and the municipalities and which has been circulated among the various parties for review and amendatory comments. A draft petition was developed for use in Commission filings for permission to develop vegetation programs around the Railroad's property. It was agreed that plans would be developed by landscape architects and submitted to the Railroad and the Commission for their review. Additional meetings and on-site examinations have resulted in recommendations incorporated into the landscape plans.

PETITIONER'S TESTIMONY

John D. Morell, Assistant Director of Public Works for Petitioner, testified as to the progress being made in modification of the vegetation in and around the Railroad's right-of-way. Some crossings did not require changes, some crossings have not been completed, and at some crossings, trees and bushes have been trimmed and/or removed. Details were shown on Exhibits One through Five which were admitted into evidence in this proceeding.

RESPONDENT'S TESTIMONY

R. A. Sturm, Director of Commuter Operations, Engineering Department, for Respondent, testified that sixty to sixty-four (60-64) passenger trains pass the crossings each day as well as four (4) freight trains. Maximum timetable speed is seventy (70) miles per hour for the passenger trains and sixty miles per hour for the freights. The crossings are equipped with automatic flashing light signals, bells, and gates as previously approved by the Commission. The Railroad does not find that the proposed plans are unreasonable. Mr. Sturm made suggestions for additional trimming at certain of the crossings, as follows: at the Prospect Avenue crossing, there are low branches on locust trees which should be trimmed; At the southeast quadrant of the Dee Road crossing, hedges should be trimmed down to three feet (3') in height; at the Oakton Street crossing, inquiry must be made as to the ownership of the honeysuckle plants. The first two block the view and should be trimmed on their track side. In the southeast quadrant of the Oakton Street crossing, the Kentucky Coffee trees should be trimmed upward as they grow taller.

FINDINGS AND ORDERS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) the City of Park Ridge, Petitioner herein, is a municipal corporation within the State of Illinois;
- (2) the Union Pacific Railroad Company, a Utah corporation, is a for-hire rail carrier of freight and/or passengers within the State of Illinois and is a rail carrier as defined by the Illinois Commercial Transportation Law;
- (3) the Commission has jurisdiction of the parties and the subject matter herein;
- (4) the City of Park Ridge has filed a petition for approval of a beautification plan of planting, repositioning, and trimming of vegetation, which is in compliance with the Law and the rules and regulations of the

Commission, along the right-of-way of the Union Pacific Railroad Company, in Park Ridge, Illinois;

- (5) the proposed beautification plan will not create obstructions to the line of sight at the subject crossings nor materially obscure the view of approaching trains to travelers on the highway or the view of approaching vehicles or pedestrians to train crews on the railroad;
- (6) it would not be reasonably practical to clear-cut all brush, shrubbery, and trees for a distance of 500 feet in either direction from each grade crossing beyond that which is required under the beautification plan as approved herein by the Commission;
- (7) the landscaping plan attached to the petition will be implemented as modified and hereafter maintained by the City of Park Ridge so as not to obscure the view of approaching trains to travelers on the highway or the view of the train crews;
- (8) approval of the landscaping plan should be granted to the City of Park Ridge to allow it to implement its plan to enhance and beautify the area adjacent to the Railroad's right-of-way in Park Ridge, Illinois.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the beautification plan submitted by the City of Park Ridge be, and the same is hereby approved.

IT IS FURTHER ORDERED that Petitioner shall notify the Commission of any change in the condition of the plantings and crossings which are the subject of this proceeding which could have an adverse affect on the sightlines of travelers on the streets or highways, motorists, or train crews at such crossings.

IT IS FURTHER ORDERED that Petitioner shall maintain the plantings in accordance with the beautification plan as approved by the Commission in such a manner as to insure that the view of approaching trains by travelers shall not become materially obscured.

IT IS FURTHER ORDERED that Petitioner shall remain responsive to the reasonable safety standards as expressed by the Railroad.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Plan, this is a final order subject to the Administrative Review Law.

By Order of the Commission this 18th day of October, 2000.

EXAMINER	SBT
SECTION CHIEF	
Supervisor of Orders	<i>[Signature]</i>

*[Signature]*³

Chairman